

1 Mark T. Dooks – State Bar No. 123561
mdrooks@birdmarella.com
2 Paul S. Chan – State Bar No. 183406
pchan@birdmarella.com
3 Gopi K. Panchapakesan – State Bar No. 279586
gpanchapakesan@birdmarella.com
4 Jonathan M. Jackson – State Bar No. 257554
jjackson@birdmarella.com
5 BIRD, MARELLA, BOXER, WOLPERT, NESSIM,
DROOKS, LINCENBERG & RHOW, P.C.
6 1875 Century Park East, 23rd Floor
Los Angeles, California 90067-2561
7 Telephone: (310) 201-2100
Facsimile: (310) 201-2110
8
9 Attorneys for Defendant Herbalife
International of America, Inc.

10
11 **UNITED STATES DISTRICT COURT**
12 **CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**
13

14 MICHAEL LAVIGNE, *et al.*,
15 Plaintiffs,
16 vs.
17 HERBALIFE LTD., *et al.*,
18 Defendants.
19
20
21
22
23
24
25
26
27
28

CASE NO. 2:18-cv-07480-JAK (MRWx)

**EXPERT REPORT OF ROBERT L.
KEHR IN SUPPORT OF
HERBALIFE'S OPPOSITION TO
PLAINTIFFS' MOTION FOR CLASS
CERTIFICATION**

Date: February 10, 2020
Time: 8:30 A.M.
Crtrm.: 10B

Assigned to Hon. John A. Kronstadt

EXPERT REPORT OF ROBERT L. KEHR

1 I am providing this Expert Report at the request of Bird Marella Boxer Wolpert
Nessim Dooks Lincenberg Rhow, P.C., attorneys for the Herbalife defendants in the
putative class action brought by Rodgers, *et al.* I have been asked to state my opinions on
whether the lawyers representing the putative class are governed by advertising and
solicitation standards in their seeking class members and representatives, and if so
whether their conduct provides a basis for their disqualification or other court response.
Section 2 of the Report and the attached Exhibit “A” together describe my qualifications,
and the attached Exhibit “B” identifies the materials I have reviewed in arriving at my
opinions. Any assumptions that contributed to my opinions are stated explicitly in
Section 4 of this Report. My opinions are mine alone and are based on my independent
review of materials. This Declaration is based on the information so far known to me and
might be supplemented if additional information later becomes available.

2 My qualifications. I have been asked to provide this Report because of my long-
standing involvement with the professional responsibility of lawyers, which includes
chairing the Professional Responsibility and Ethics Committee of the L.A. County Bar
Assn., chairing the Standing Committee on Professional Responsibility and Conduct of
the State Bar of California, serving as a member of the State Bar Commissions that over a
number of years drafted California’s new Rules of Professional Conduct (effective as of
November 1, 2018), and serving as an Adjunct Professor of Law at Loyola Law School
teaching subjects that include the professional responsibilities of lawyers.

3 Introduction regarding choice of law. Choice of law issues are fairly common in
determining the standards applicable to lawyers because lawyers often work in
cooperation with lawyers licensed in different jurisdictions, and because lawyers

1 frequently are engaged in conduct that affects person and events in other jurisdictions. A
2 lawyer who appears of record in litigation universally is required to agree to conform to
3 the Rules of Professional Conduct in effect in that jurisdiction. Because the events
4 underlying this Expert Report related to the filing of a lawsuit in Florida, my analysis
5 begins with Florida's Rules of Professional Conduct, but it is possible that the Ohio or
6 California Rules also might apply because Jason Jones is an Ohio lawyer and presumably
7 was located in Ohio when some of the challenged conduct occurred, and because the
8 putative class action now is pending in California. Unfortunately the Florida choice of
9 law Rule, Fl. Rule 4-8.5, is particularly unhelpful. It states in full: "A lawyer admitted to
10 practice in this jurisdiction is subject to the disciplinary authority of this jurisdiction
11 although engaged in practice elsewhere." The accompanying Florida Comment says only
12 that conflict of law principles might apply in some situations but says nothing about the
13 substance of those principles. It is my view that, in the absence of any Florida guidance,
14 the choice of law standards are correctly set out in ABA Model Rule 8.5(a) and the
15 identical Ohio and California rules bearing the same number. They state:

16 (b) Choice of Law. In any exercise of the disciplinary authority of Ohio, the rules
17 of professional conduct to be applied shall be as follows:

18 (1) for conduct in connection with a matter pending before a tribunal,
19 the rules of the jurisdiction in which the tribunal sits, unless the
20 rules of the tribunal provide otherwise;

21 (2) for any other conduct, the rules of the jurisdiction in which the
22 lawyer's conduct occurred, or, if the predominant effect of the
23 conduct is in a different jurisdiction, the rules of that jurisdiction shall be
24 applied to the conduct. A lawyer shall not be subject to discipline if the
25 lawyer's conduct conforms to the rules of a jurisdiction in which the
26 lawyer reasonably believes the predominant effect of the lawyer's
27 conduct will occur

28 Based on my assumption that all of the questioned lawyer conduct occurred for purposes

1 of the filing of the original federal court lawsuit in Florida, it is my opinion that the
2 Florida Rules of Professional Conduct govern here. For reasons explained by the Florida
3 Supreme Court,¹ the pertinent Rule, numbered as Rule 7.3 in most jurisdictions is
4 numbered in Florida as Rule 4-7.18. However, it is the substantive equivalent of Model
5 Rule 7.3 (and the identically numbered California and Ohio Rules). Because the Florida
6 Rule is considerably more extensive and detailed than either the Model Rule or those in
7 other jurisdictions, because it is possible to address the questioned lawyer conduct
8 without going into Florida's elaborations and because the case law generally uses the
9 Model Rule numbering, I will use the Model Rule numbering in the balance of this
10 Report.

11
12 **4 My opinions.** My opinions are based on assumptions stemming from deposition
13 testimony provided by Jennifer Ribalta, Patricia Rodgers, and Izaar Valdez; the
14 deposition extracts on which I have relied are attached as Exhibit "C" to this Report.
15 Each one testified that they first were contacted about being a member of the putative
16 class or class representative when each received a soliciting telephone call. Ms. Ribalta
17 testified that this initiating contact was from Jason Jones and that she had no prior
18 relationship with him. Ms. Rodgers testified that her initiating call was from a woman
19 who she did not believe to be a lawyer but an agency, and that she then was contacted by
20 Jason Jones with whom she had no prior relationship. Ms. Valdez testified she was
21 introduced to Jason Jones by her father, Felix Valdez; Mr. Valdez was a member and was
22 a representative of the putative class when the action was filed. On this basis, I assume
23 for purposes of this Expert Report that Mr. Jones either directly or indirectly contacted at
24 least two members and representatives of the putative class through direct person-to-
25 person communication, plus Mr. Valdez unless Mr. Jones' communications with him are
26

27 ¹available at:
28 <https://www.floridasupremecourt.org/content/download/421522/4555521/sc11-1327.pdf#search=SC11-1327>

1 shown to have been proper and Ms. Valdez unless her father is show to have acted
2 independently of Mr. Jones.²

3 **4.1 Rule 7.3.** The starting point for any inquiry about a lawyer’s solicitation is
4 Rule 7.3. That Rule, in Florida and elsewhere, generally prohibits solicitation. Florida
5 Rule 4-7.18(a)(1) is substantively the same as the Model, California, and Ohio Rules 7.3
6 in using the following definition: “The term ‘solicit’ includes contact in person, by
7 telephone, by electronic means that include real-time communication face-to-face such as
8 video telephone or video conference” The key to this definition is that advertising
9 rules recognize an essential difference between static advertising, such a billboards,
10 newsletters, radio and television advertising and so on, and person-to-person
11 communications. Static forms of advertising permit a potential client to make a measured
12 decision about legal representation while person-to-person communications could permit
13 a lawyer or a lawyer’s representative to utilize professional skills, experience, and status
14 to intrude on and hurry a potential client’s decision-making. The Florida and comparable
15 Rules elsewhere apply only when there is “no family or prior professional relationship.”³

16 **4.2 Rule 7.3 applies to class actions.** The starting point in analyzing this issue
17 is ABA Formal Op. 07-445 (2007). It concludes that “if ... plaintiffs' counsel's goal is to
18 seek to represent the putative class member directly as a named party to the action or
19 otherwise, the provisions of Rule 7.3, which governs lawyers' direct contact with
20 prospective clients, applies.” The reason is that absent class members then are not
21 considered to be clients of putative class counsel, and “[t]he fact that an action has been
22 filed as a class action does not affect the policies underlying Rule 7.3 that prohibit the
23

24 ²The prohibition in Florida Rule 4-7.18(a)(1) applies to solicitations by a lawyer
25 and also those by a lawyer’s employee or agent.

26 ³The quoted words are taken from Florida Rule 4-7.18(a)(1). Model Rule 7.3(b)(2)
27 similarly applies only when there is no “family, close personal, or prior business or
28 professional relationship” with the lawyer or law firm (California and Ohio use this same
Model Rule phrase in their versions of Rule 7.3). The language differences are not
pertinent here.

1 types of contact with prospective clients that have serious potential for overreaching and
2 other abuse.” This conclusion has been widely accepted. *See, e.g., Farrow v. Ammari of*
3 *Louisiana, Ltd*, 2017 WL 2812930, at *10 (E.D. La. 2017); *Mendez v. Enecon Northeast*
4 *Applied Polymer Sys., Inc.*, 2015 WL 4249219, at *3 (E.D.N.Y. 2015); *Spagnuoli v.*
5 *Louie's Seafood Rest., LLC*, 20 F. Supp. 3d 348, 358 (E.D.N.Y. 2014); *Johnson v.*
6 *Bankers Life & Cas. Co.*, 2013 WL 5442374, at *2, n.1 (W.D. Wis. 2013); and *Berndt v.*
7 *California Dep't of Corr.*, 2010 WL 5209384, at *2, n. 6 (N.D. Cal. 2010).⁴

8 **4.3 Class action consequences of a Rule 7.3 violation.** Just as there is no
9 question that Rule 7.3 applies to the conduct of a lawyer for a putative class, there is no
10 question that courts have a variety of remedies available for use when the putative class
11 lawyer violates Rule 7.3. *See, e.g., Reliable Money Order, Inc. v. McKnight Sales Co.*,
12 704 F.3d 489, 498-99 (7th Cir. 2013) (recognizing that a Rule 7.3 violation by putative
13 class counsel can result in the denial of certification); *Edwards v. First Am. Corp.*, 289
14 F.R.D. 296, 302 (C.D. Cal. 2012) (to the same effect); *Bennett v. Advanced Cable*
15 *Contractors, Inc.*, 2012 WL 1600443, at *11 (N.D. Ga. 2012) (finding a Rule 7.3
16 violation as to two Plaintiffs who opted in to the class after prohibited communications
17 and requiring that they file renewed Consent Forms to join the case); *Hamm v. TBC*
18 *Corp.*, 597 F. Supp. 2d 1338, 1353 (S.D. Fla. 2009) (lawyers’ telephone solicitation of
19 opt-in plaintiffs before certification violated Rule 7.3, and court barred the lawyers from
20 representing any future opt-in client not directly associated with the named plaintiffs);
21 *Kaufman v. Am. Family Mut. Ins. Co.*, 2008 WL 1806195, at *5 (D. Colo. 2008) (finding
22 telephonic potential class member solicitation violated Colorado Rule 7.3 and protective
23 order and, after considering that the purposes of discovery sanctions include “detering
24

25
26 ⁴*Cf. Kennedy v. United Healthcare of Ohio, Inc.*, 206 F.R.D. 191 (S.D. Ohio 2002)
27 has language to the contrary, but it uses “solicit” only in the sense of “seek” and without
28 reference to Rule 7.3 or its policy concerns. I do not disagree that a lawyer may use
advertising to seek class members and representatives so long as the advertising complies
with Rule 7.1.

1 future litigation abuse, punishing present litigation abuse, compensating victims of
2 litigation abuse, and streamlining court dockets and facilitating case management” (*Id.* at
3 *7), denying class certification, ordering Plaintiff’s counsel to pay the legal fees and costs
4 incurred by Defendant for the depositions of the claimants contacted by Plaintiff’s counsel
5 and preparation of the Motion for Sanctions and reply brief (*Id.*) and referring Plaintiff’s
6 counsel to the Court’s Committee on Conduct (*Id.* at *6), among other things); and
7 *Cavallaro v. U. Mass Mem’l Health Care Inc.*, 2010 WL 3609535, at *6 (D. Mass. 2010)
8 (commenting that a facially-valid opt-in consent might prove to be invalid if it was the
9 product of unethical solicitation).

10
11 **5 Conclusion.** It is my opinion that Mr. Jones repeatedly violated Rule 7.3 - Florida
12 Rule 4-7.18 - through in-person solicitations of potential class members and
13 representatives. These violations can have civil as well as disciplinary consequences that
14 include, among other things, rejection of class status. The consequences are within the
15 court’s discretion based on the evidence provided to it, and as an expert witness I do not
16 comment on the ultimate result in this situation.

17
18
19 December 12, 2019.



20
21 Robert L. Kehr

EXHIBIT “A”

ROBERT L. KEHR - Cornell University (B.A., 1966); Columbia University (J.D., 1969); Member: California State Bar Commission for the Revision of the Rules of Professional Conduct (2005-2017); California State Bar Standing Committee on Professional Responsibility and Conduct (Member: 1996-2001, Chair, 1999-2000 and Special Advisor: 2000-01); Professional Responsibility and Ethics Committee of the Los Angeles County Bar Association (Member: 1981-Present and Chair: 1986-87); Evaluation of Professional Standards Committee of the Los Angeles County Bar Association (Member: 1988 - merged into PREC); Member: American Law Institute; Member: Association of Professional Responsibility Lawyers; Adjunct Professor - Loyola Law School; Author: “A Trial Lawyer’s Guide to Rule 3.3” (to be published by the Litigation Section of the California Lawyers Assoc. in 2020); “The Troubled History of the Business Transactions Rule” - July/August 2019 issue of Los Angeles Lawyer; “The Lawyer as Director” - April 2018 Los Angeles County Bar Updates; “The Lawyer as Escrow Holder” - March 2018 Los Angeles County Bar Updates; “Lawyer Ethics in Real Estate Transactions” - ABA Probate & Property, Vol. 26, No. 2 (Mar/Apr 2012) (with Prof. Roger Bernhardt); “The Lawyer as Scrivener” - Los Angeles Lawyer (2011), Vol. 34, No. 6, p. 20; “Midcourse Corrections: Being Professionally Responsible in Property Transactions” - 34 CEB Real Property Law Reporter 123 (July 2011) (with Prof. Roger Bernhardt); “When a Lawyer-Mediator Prepares the Settlement Agreement” - ABA/BNA Lawyers' Manual on Professional Conduct (2011), Vol. 27, No. 12; “Principles or Rules: What is the Best Approach to Regulation?” Los Angeles Daily Journal, August 12 and August 13, 2010; “Lawyer Error: Malpractice, Fiduciary Breach, or Disciplinable Offense?” - 29 W.St.U.L.Rev. 235 (2002); “Update on Conflicts of Interest” - Los Angeles Lawyer (2000), Vol. 23, No. 4 p. 33; “Ruling on the Rules” - Los Angeles Lawyer (1998), Vol. 21 No. 4 p. 37; Peck & Kehr, “Ruling on the Rules” - Vol. 21 No. 4, p. 37 Los Angeles Lawyer (1998); “The Changing Law of Lease Assignments” - Real Estate Review, Vol. 11 No. 2 p. 54, (1981); “Lease Assignments: The

1 Landlord's Consent" - 55 California State Bar Journal 108 (1980); "The Application of
2 Green v. Superior Court to Non-Residential Realty" - 1 Los Angeles Lawyer 30 (1979).
3 Arbitrator: Los Angeles County Bar Attorneys Fee Arbitration Committee, (1980-Present).
4

5 Currently practice limited to transactional matters and consultation and expert
6 testimony concerning legal ethics and standard of care issues. Frequent lecturer on lawyer
7 responsibilities.
8

9 Robert L. Kehr was a speaker or one of the panelists at the following programs:

10 1. "Disclosure Pitfalls for Lawyers: Partners, Brokers, and Other Fiduciaries
11 in Real Estate Transactions." This program was given under the auspices of the Real
12 Estate Committee of the Los Angeles County Bar Association on May 18, 1995.

13 2. "Breaking Up is Hard to Do: Ethical Issues in Lateral Transfers and Law
14 Firm Dissolutions." This program was given under the auspices of the Los Angeles
15 County Bar Association Committee on Professional Responsibility and Ethics on June
16 22, 1995.

17 3. "Engagement, Disengagement, and Non-Engagement Letters." This
18 program was given under the auspices of the Business Law Section of the State Bar of
19 California as part of the annual spring program on June 23, 1995.

20 4. "Managing Civil Conflicts of Interest In and Out of Court." This program
21 was given under the auspices of the Los Angeles County Bar Association on October 21,
22 1995.

23 5. "Conflicts of Interest." This program was sponsored by the California
24 Continuing Education for the Bar on January 23, 1997.

25 6. "The Application of Advertising & Solicitation Rules to the Internet".
26 This program was sponsored by the Law Firm of Jackson & Lewis on March 18, 1997.

27 7. "Recognizing and Avoiding Conflicts of Interest." This program was
28 presented to the Los Angeles Consumer Lawyers Association on July 10, 1997.

1 8. “Recent Developments in Legal Ethics.” This program was presented to
2 the California State Bar at its September 13, 1997 annual meeting.

3 9. “Ethics Issues in Buying and Selling Businesses.” This program was
4 presented by CLE International as part of a 2-day program on December 4, 1997.

5 10. “Conflicts: Traps and Consequences for Lawyer and Insurers.” This
6 program was presented by the Assoc. of So. Cal. Defense Counsel on February 5, 1998

7 11. “Legal Ethics in Land Use Matters”. This program was presented by CLE
8 International on April 30, 1998.

9 12. “Recent Developments in Professional Responsibility.” This program was
10 presented to the California State Bar at its October 1-4, 1998 annual meeting.

11 13. “‘What Every Lawyer Needs to Know About Conflicts of Interest.” This
12 program was presented to the California State Bar at its October 1-4, 1998 annual
13 meeting.

14 14. “Ethics Issues in Buying and Selling Businesses.” This program was
15 presented by CLE International as part of a 2-day program on February 26, 1999.

16 15. “Methods for Identifying and Avoiding Conflicts.” This program was
17 presented to the California State Bar at its October 2, 1999 annual meeting.

18 16. “Conflicts of Interest.” This program was presented to the Sonoma County
19 Bar Association on November 30, 1999.

20 17. “Ethics Issues in Cutting Edge Fee Arrangements.” This program was
21 presented at the Beverly Hills Bar Association on April 29, 2000.

22 18. “The Ethics of Taking Stock for Services.” This program was presented at
23 the Annual Statewide Ethics Symposium on June 17, 2000, at Western States University
24 School of Law.

25 19. “Methods for Identifying and Avoiding Conflicts.” This program was
26 presented to the California State Bar at its September 2000 annual meeting.

27 20. “Conflicts of Interest: An In-Depth Analysis for Corporate and Private
28 Counsel.” This program was presented by PLI on December 14, 2000 (Los Angeles)

1 and January 12, 2001 (San Francisco).

2 21. “Navigating the Ethical Maze of Elder Law, Estate Planning and Fiduciary
3 Conflicts: Practical Strategies both to Serve our Clients and Avoid Malpractice” which
4 was presented to the Beverly Hills Bar Association on May 30, 2001.

5 22. “Non-Consensual Ethics Screening for Private Lawyers” which was
6 presented at the Annual Statewide Ethics Symposium on June 16, 2001, at Western
7 States University School of Law.

8 23. “A Review of Fees, Fee Agreements, Fee Collections, Unconscionability,
9 and Non-Standard Fee Arrangements” which was presented to the State Bar of
10 California at its September 8, 2001 annual meeting.

11 24. “The Going Rate: Entertainment Economics by the Numbers” [legal ethics
12 aspects] which was presented at the USC/Beverly Hills Bar Association 47th Annual
13 Entertainment Law Institute on September 15, 2001.

14 25. “Recognizing and Avoiding Conflicts of Interest” which was presented by
15 CEB on November 7 (San Diego), November 17 (Costa Mesa), and December 8, 2001
16 (Los Angeles).

17 26. “Conflicts of Interest: An In-Depth Analysis for Corporate and Private
18 Counsel” which was presented by PLI on December 14, 2001 (San Francisco) and
19 January 11, 2002 (Los Angeles).

20 27. “Legal Ethics 2002-2003 - Current Developments” which was presented
21 by PLI (Los Angeles) on January 10, 2003.

22 28. “The Role and Responsibility of Lawyers” which was presented at
23 Pepperdine Law School, MDR program on January 21, 2003.

24 29. “Ethics” which was presented at the 15th Annual Educational Conference
25 of the California Alliance of Paralegal Association program on June 21, 2003.

26 30. “Advanced Problems in Conflicts of Interest” which was presented at the
27 Annual Statewide Ethics Symposium on June 28, 2003, at Whittier Law School, Costa
28 Mesa.

1 31. “Buying & Selling a Business” which was presented by Sterling Education
2 Services on November 14, 2003 in Pasadena.

3 32. “Legal Ethics - Current Developments” which was presented by PLI on
4 January 9, 2004, in Los Angeles.

5 33. “The Essentials of Legal Ethics: The Lawyers' Responsibilities and
6 Conflicts of Interest” which was presented by CLE International in Los Angeles on
7 January 23, 2004.

8 34. “The Role and Responsibility of Lawyers” which was presented at
9 Pepperdine Law School, MDR program on February 2, 2004.

10 35. “An Attorney's Duties to the Court and Opposing Counsel” which was
11 presented by Consumer Attorneys of Los Angeles Annual Las Vegas Convention on
12 August 29, 2004.

13 36. “Legal Ethics - Current Developments” which was presented by PLI on
14 January 14, 2005, in Los Angeles.

15 37. “The Ethics of Referral Fees” which was presented by the Southern
16 California Council of Elder Law Attorneys on February 9, 2005.

17 38. “The Role and Responsibility of Lawyers” which was presented at
18 Pepperdine Law School, MDR program on March 2, 2005.

19 39. “Relationship Agreements” which was presented by The Seminar Group
20 on March 4, 2005, in Los Angeles.

21 40. “Ethics and Conflict of Interest” which was presented at The Family Law
22 Study Group on May 10, 2005, in Los Angeles.

23 41. “Legal Ethics for Real Estate Attorneys” which was presented by the Los
24 Angeles County Bar Association and the American Bar Association on December 7,
25 2005, in Los Angeles.

26 42. “The Work of the Commission for the Revision of the Rules of
27 Professional Conduct” which was presented at the Annual Statewide Ethics Symposium
28 on May 6, 2006, at Santa Clara Law School.

1 43. “Legal Ethics in ADR” which was presented at the ADR conference at
2 Pepperdine Law School on May 20, 2006.

3 44. “Legal Ethics Issues of the California Environmental Quality Act” which
4 was presented by CLE International on August 14, 2006, in Los Angeles.

5 45. “Legal Ethics” which was presented by CEB on November 18, 2006, in
6 Anaheim and December 9, 2006, in Los Angeles.

7 46. “Ethical Issues for Business Lawyers” which was presented by the
8 California Bankers Association's Bank Counsel Seminar on March 30, 2007, in Dana
9 Point, California.

10 47. “Ethics Update: The Latest Recent Developments and Proposed New
11 Rules from the California Rules Revision Commission” which was presented by CEB on
12 November 16 and December 8, 2007 in Anaheim and Los Angeles.

13 48. “Potpourri of Ethics: Conflicts and Updates on Important Developments”
14 which was presented by the Beverly Hills Bar on November 30, 2007, in Beverly Hills.

15 49. “Residential Landlord-Tenant Law” (legal ethics aspects) which was
16 presented by Sterling Education Services on March 27, 2008, in Santa Monica.

17 50. “Nuts and Bolts of Ethics” which was presented by The California Political
18 Attorneys Association on September 6, 2008, in Universal City.

19 51. “What Every Lawyer Needs to Know About the Upcoming Changes to the
20 Rules of Professional Conduct” which was jointly sponsored by the Rules Revision
21 Commission and the Inns of Court and was presented at the State Bar Convention on
22 September 25, 2008, in Monterey, California.

23 52. “Ethics Update: The Latest Recent Developments and Proposed New
24 Rules from the California Rules Revision Commission” which was presented by CEB on
25 December 5, 2008, in Los Angeles.

26 53. “Re-Forming the California Rules of Professional Conduct” which was
27 presented at the State Bar 13th Annual Ethics Symposium on May 2, 2009, in San Diego.

28 54. “Ethics Update 2010: Recent Developments and Proposed New Rules

1 from the California Rules Revision Commission” which was presented by CEB on
2 January 15, 2010 in Orange County and on January 29, 2010, in Los Angeles.

3 55. “Criminal Defense and the New Rules of Professional Conduct” which
4 was presented by the Los Angeles County Bar Association on January 16, 2010, in Los
5 Angeles.

6 56. “The ABCs of Conflicts of Interest” which was presented in Temecula,
7 California on January 30, 2010.

8 57. “Landlord-Tenant Law Update” which was presented by Sterling
9 Education Services in Pasadena on June 17, 2010.

10 58. “Attorney Fee Agreements & Fee Disputes: Basics and Recent
11 Developments” which was presented by CEB in Los Angeles on August 20, 2010.

12 59. “The Proposed New California Rules of Professional Conduct” which was
13 presented by BNA on November 11, 2010 as a webinar.

14 60. “Ethics Update 2011: Recent Developments and Proposed New Rules
15 from the California Rules Revision Commission” which was presented by CEB on
16 January 21, 2011 in Orange County and on January 28, 2011, in Los Angeles.

17 61. “Foreshadowing: California's New Proposed Rules of Professional
18 Conduct” which was presented by California Society for Healthcare Attorneys on
19 April 10, 2011 in Los Angeles.

20 62. “The Proposed New California Rules of Professional Conduct” which was
21 presented by BNA on October 19, 2011 as a webinar.

22 63. “A Selected Introduction to Contingency Fees, Non-Refundable Fees, and
23 Lawyer-Client Business Transactions” which was presented on November 30, 2011 as an
24 in-house seminar at King, Holmes, Paterno & Berliner, LLP in Los Angeles.

25 64. “Advance Consents to Conflicts of Interest” which was presented on
26 December 3, 2011 by the Los Angeles County Bar Association in Los Angeles.

27 65. “Ethics Update 2012: Recent Developments and Proposed New Rules
28 from the California Rules Revision Commission” which was presented by CEB on

1 January 20, 2012 in Orange County and on January 27, 2012, in Los Angeles.

2 66. "Transactional Conflicts of Interest" which was presented to USC Law
3 School LLM students on February 6, 2012.

4 67. "Navigating Common Ethical Dilemmas," which was presented on
5 May 17, 2012 by the Los Angeles Paralegal Association at Abraham Lincoln University
6 School of Law in Los Angeles.

7 68. "The No-Contact Rule: Up Close and Personal," which was presented on
8 May 19, 2012 at the State Bar's Statewide Ethics Symposium to be held at Hastings
9 School of Law.

10 69. "Attorney-Client Privilege" which was presented on June 13, 2012 by the
11 Kern County Bar Association at the Petroleum Club in Bakersfield, California.

12 70. "Ethics for Criminal Defense Lawyers" which was presented on
13 August 30, 2012 as a firm-wide teleconference for the Kavinoky Law Firm.

14 71. "Ethics Update 2013: Recent Developments and Proposed New Rules
15 from the California Rules Revision Commission" which was presented by CEB on
16 January 18, 2013 in Los Angeles and on January 25, 2013 in Orange County.

17 72. "Ethical Rules for Healthcare Lawyers: What You Don't Know Can Harm
18 You (And Your Clients)" which was presented by the California Society of Health
19 Attorneys on April 13, 2013 in Newport Beach, California.

20 73. "Legal Ethics, Recent Developments & Emerging Rules" presented by the
21 Association of Business Trial Lawyers on May 7, 2013 in Los Angeles.

22 74. "Avoiding Conflicts in Representing a Closely-Held Business" presented
23 by CEB as a webinar on September 24, 2013.

24 75. "Selected Issues in Attorneys Fees" presented on December 7, 2013 by the
25 Los Angeles County Bar Association in Los Angeles.

26 76. "OCBA Ethics Update 2013" presented by the Orange County Bar
27 Association on December 14, 2013 in Newport Beach.

28 77. "Legal Ethics in Probate and Trust Matters" presented on May 14, 2014 by

1 the Kern County Bar Association in Bakersfield, California.

2 78. "An Introduction to Conflicts of Interest" videotaped on June 19, 2014 for
3 AttorneyCredits.com.

4 79. "Legal Fees, Fee Agreements, and Fee Collectibility" presented by
5 Concord Law School on June 21, 2014 in Pasadena.

6 80. "Recent Developments in California Legal Ethics" videotaped for CEB on
7 July 19, 2014.

8 81. "Ethical Issues in Law Office Marketing" presented by the Beverly Hills
9 Bar Association on November 5, 2014.

10 82. "Conflicts of Interest" presented by the Los Angeles County Bar Assoc.
11 Prof. Responsibility and Ethics Comm. on December 6, 2014 in Los Angeles.

12 83. "OCBA Ethics Update 2014" presented by the Orange County Bar
13 Association on December 10, 2014 in Irvine.

14 84. "Conflicts of Interest and Disqualification Arising from Prior Client
15 Representations: What Are the Rules?" presented by COPLI as a webinar on January 13,
16 2015.

17 85. "Selected Issues in Legal Ethics for Health Lawyer" presented by the Los
18 Angeles County Bar Section on Health Law on January 15, 2015.

19 86. "Probate Symposium" presented by the San Bernardino County Bar
20 Association on May 27, 2015.

21 87. "Selected Issues in Legal Ethics" presented by the California Association
22 of Realtors on August 6, 2015.

23 88. "The Past Year in Review: Recent Developments in the Law of
24 Lawyering" presented by the State Bar's Committee on Professional Liability Insurance
25 at the State Bar Annual Meeting in Anaheim on October 10, 2015.

26 89. "Recent Developments in California Legal Ethics" videotaped for CEB on
27 December 1, 2015.

28 90. "OCBA Ethics Update 2015" presented to the Orange County Bar

1 Association on December 5, 2015.

2 91. "Ethical Keys: Client Identity, Conflicts, and More" presented to the
3 Group Legal Services meeting of the California Teachers' Association in Costa Mesa on
4 February 6, 2016.

5 92. "Doing Business with Your Client: The Problems, Pitfalls and Issues in
6 Lawyer-Client Transactions" presented to the Southern California Business Litigation
7 Inn of Court on March 3, 2016.

8 93. "Common Mistakes Made in Drafting Contingency Fee Agreements and
9 How to Avoid Them" presented by COPLI as a webinar on April 19, 2016.

10 94. "The Formation, Scope, and Termination of a Lawyer-Client Relationship"
11 presented by COPLI on September 29, 2016 at the State Bar annual meeting.

12 95. "OCBA Ethics Update 2016" presented to the Orange County Bar
13 Association on December 3, 2016.

14 96. "What you don't know, but should, about the New California Rules of
15 Professional Conduct" presented at the Annual Statewide Ethics Symposium on
16 April 21, 2017 at Loyola Law School, Los Angeles.

17 97. "OCBA Ethics Update 2017" presented to the Orange County Bar
18 Association on September 28, 2017.

19 98. "Conflicts Analysis in the Representation of Governmental Entities and
20 Agencies" presented in-house to Meyers Nave on May 22, 2018.

21 99. "Brave New World: What Business Lawyers Need to Know about the Sea
22 Change to new Rules of Professional Conduct" presented to the Beverly Hills Bar
23 Association on July 12, 2018.

24 100. "The New Rules of Professional Conduct" presented to the Los Angeles
25 County Bar Association on August 21, 2018.

26 101. "California's New Rules of Professional Conduct: BE PREPARED!"
27 presented to the Orange County Bar Association on October 17, 2018.

28 102. "An Introduction to California's New Rules of Professional Conduct"

1 presented in-house to Bird, Marella, Boxer, Wolpert, Nessim, Drooks & Lincenberg,
2 APC on October 24, 2018 in Los Angeles.

3 103. "An Introduction to California's New Rules of Professional Conduct"
4 presented in-house to Klein DeNatale Goldner on October 27, 2018 at Bakersfield.

5 104. "An Introduction to California's New Rules of Professional Conduct"
6 presented in-house to Pachulski Stang Ziehl & Jones on November 19, 2018 in Los
7 Angeles.

8 105. "OCBA Ethics Update 2018" presented to the Orange County Bar
9 Association on November 29, 2018.

10 106. "An Introduction to California's New Rules of Professional Conduct"
11 presented in-house to Shartsis Friese, LLP on January 14, 2019 in San Francisco.

12 107. "The New Rules of Professional Conduct" presented at the Mexican-
13 American Bar Association on January 26, 2019 at Loyola Law School, Los Angeles.

14 108. "An Introduction to California's New Rules of Professional Conduct"
15 presented to the Century City Bar Assoc. on January 31, 2019.

16 109. "Tips & Training: Navigating Attorney-Client Fee Disputes" presented via
17 the internet CLE Program and hosted by the National Association of Legal Fee Analysis
18 on March 14, 2019.

19 110. "An Introduction to California's New Rules of Professional Conduct"
20 presented to the American College of Trust and Estate Counsel on March 23, 2019 in La
21 Quinta, California.

22 111. "New Rules for Trust & Estate Lawyers" presented to the South Bay Bar
23 (Trusts and Estates sections) and South Bay Estate Planning Council on July 11, 2019 in
24 Torrance, California.

25 112. "The Role of Non-Attorneys in Access to Justice: A Discussion with the
26 State Bar of California" on August 27, 2019 at the Los Angeles County Bar Association.

27 113. "Minor's Counsel Training: Professional Responsibilities: *Knowing the*
28 *difference between what you have a right to do and what is right to do.*" - presented as

1 the Los Angeles County Bar Assoc. November 19, 2019

2 114. "Ethics in IP Enforcement" presented by the Los Angeles Chapter of the
3 Copyright Society of the USA in Century City on November 21, 2019.

4 115. "OCBA Ethics Update 2019" presented to the Orange County Bar
5 Association on December 4, 2019.

6 116. "Legal Ethics for Trust & Estate Lawyers" to be presented to the UCLA/
7 CEB Estate Planning Institute on April 25th, 2020 at the Marina del Rey Marriott.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT “B”
MATERIALS REVIEWED

Rodgers, *et al.* v. Herbalife, Ltd. *et al.* Class Action Complaint (S.D. Fl.)
Attached selections from depositions of Jennifer Ribalta, Patricia Rogers, and Izaar
Valdez

EXHIBIT “C”
DEPOSITION EXTRACTS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 UNITED STATES DISTRICT COURT
2 CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION
3
4 MICHAEL LAVIGNE, et al.,
5 Plaintiffs,
6 vs. CASE NO.:
7 HERBALIFE LTD., et al., 2:18-CV-07480-JAK (MRWX)
8 Defendants.
9 _____/

10
11
12 VIDEOTAPED DEPOSITION OF PATRICIA RODGERS
13 Saturday, September 21, 2019
14 9:09 a.m. - 3:27 p.m.
15 Kluger Kaplan
16 201 S. Biscayne Boulevard, 27th Floor
17 Miami, Florida
18
19
20

21 Reported By:
22 Gina Rodriguez, RPR, CRR, CCP
23 JOB No. 3487023
24
25 PAGES 1 - 251

1 Q. Okay. How did you come to be a plaintiff
2 in this action?

3 MS. JONES: I -- I'll just object with the
4 caveat that no conversations with any of your
5 attorneys, don't discuss any of those, but
6 generally outside of conversations.

7 Does that make sense?

8 THE WITNESS: Hmmm.

9 MS. JONES: Okay. So you can answer.

10 BY MR. PANCHAPAKESAN:

11 Q. How did you become a plaintiff in this
12 case? And, again, I don't want to know about
13 conversations --

14 A. Someone called me on the phone.

15 Q. Who called you?

16 A. A lady.

17 Q. Do you remember her name?

18 A. No.

19 Q. Is she an attorney?

20 A. No.

21 Q. Was she a distributor?

22 A. No. She was a lady wanting to know if I
23 would be interested in speaking to someone about it.

24 Q. Okay. Do you know if that lady worked at a
25 law firm?

1 A. I don't remember. She said she worked for
2 someone, like a agency that looked for people kind of
3 thing.

4 Q. So you were contacted by someone --

5 A. She was ad agency or something.

6 Q. You think you were contacted by someone who
7 works for -- for an ad agency, you said?

8 A. I don't remember. It was a lady.

9 Q. Okay. But you -- you weren't contacted by
10 an attorney?

11 A. No.

12 Q. And the person you were contacted by, do
13 you know if she worked for an attorney?

14 A. I don't think so.

15 Q. Okay. You think she worked for some
16 agency?

17 A. Yeah.

18 Q. Do you know the name of the agency?

19 A. No.

20 Q. Do you know anything about the agency?

21 A. No.

22 Q. Is it some agency that -- that looks for
23 potential plaintiffs --

24 MS. JONES: Object- --

25

1 Q. It was after that?

2 A. It was after that.

3 Q. Okay. Then what happened next after that
4 call? Were you -- were you contacted by an attorney?

5 MR. ADAR: If -- if the answer to your
6 question -- you can go ahead, I'm sorry.

7 MS. JONES: You can answer. Just no -- no
8 conversations.

9 A. Yes.

10 BY MR. PANCHAPAKESAN:

11 Q. When was that? How long after that first
12 call was that?

13 A. After I gave her the okay.

14 Q. And -- and who contacted you that second
15 time?

16 MS. JONES: You can give him the name of
17 the person.

18 A. I don't remember his name.

19 BY MR. PANCHAPAKESAN:

20 Q. Is it Jason Jones?

21 A. Jason.

22 Q. All right. And that was shortly after the
23 first call with -- with this person from an agency?

24 A. Yes, a lady.

25 Q. Okay. Are you -- are you being compensated

1 A. No.

2 Q. Is there anywhere else you have records --
3 existing records in connection with Herbalife?

4 A. (Shaking head.)

5 Q. Is that a "no"?

6 A. No.

7 Q. Okay.

8 MR. PANCHAPAKESAN: Why don't we take a
9 quick break. I think I'm very close.

10 THE WITNESS: Okay.

11 THE VIDEOGRAPHER: Off the record. The
12 time is 3:14.

13 (Recess was held from 3:14 p.m. until 3:22 p.m.)

14 THE VIDEOGRAPHER: Back on the record. The
15 time is 3:22.

16 MR. PANCHAPAKESAN: Just -- just a few more
17 questions, Ms. Rodgers.

18 BY MR. PANCHAPAKESAN:

19 Q. You don't -- you didn't have a prior
20 relationship with Mr. Jones, right? He just
21 contacted you?

22 A. No.

23 MS. JONES: I just want to object. That
24 was misstating the -- I don't think she ever
25 said he contacted her.

1 BY MR. PANCHAPAKESAN:

2 Q. You didn't have a prior relationship before
3 you spoke with Mr. Jones, right?

4 A. No.

5 Q. Now, earlier -- and -- and he contacted you
6 directly, Mr. Jones?

7 MS. JONES: You can answer if you know.

8 That's --

9 A. Yes.

10 BY MR. PANCHAPAKESAN:

11 Q. Earlier when we were talking about your
12 nutrition club, you had said there were some health
13 issues you faced.

14 I don't want to get into the specifics,
15 but can you tell me generally what that involved.

16 MS. JONES: Objection, form.

17 A. I just had some health issues.

18 MS. JONES: Is there a way you can ask the
19 question without the specifics of her health
20 issues?

21 MR. PANCHAPAKESAN: You know, forget about
22 it. I think we can . . .

23 BY MR. PANCHAPAKESAN:

24 Q. But you felt those issues were serious
25 enough that it may have taken some time away from the

CERTIFICATE OF REPORTER

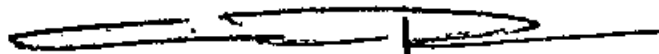
STATE OF FLORIDA

COUNTY OF MIAMI-DADE

I, GINA RODRIGUEZ, Registered Professional Reporter, Certified Realtime Reporter, do hereby certify that I was authorized to and did stenographically report the foregoing videotaped deposition of PATRICIA RODGERS; pages 1 through 249; that a review of the transcript was requested; and that the transcript is a true record of my stenographic notes.

I FURTHER CERTIFY that I am not a relative, employee, attorney, or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorneys or counsel connected with the action, nor am I financially interested in the action.

Dated this 8th day of October, 2019.



GINA RODRIGUEZ, RPR, CRR

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

MICHAEL LAVIGNE, ET AL.,)
)
PLAINTIFFS,)
)
VS.) CASE NO. 2:18-cv-07480
) JAK (MRWx)
HERBALIFE LTD., ET AL.,)
)
DEFENDANTS.)
_____)

VIDEOTAPED DEPOSITION OF JENNIFER NOEL RIBALTA
THURSDAY, AUGUST 29, 2019, 9:07 A.M.
LOS ANGELES, CALIFORNIA

Reported by Laury Wasoff, CSR No. 10995, RPR
CLS Job No. 107888

CENTEXTLEGAL.COM - 855.CENTEXT

11:03:40 1 photography business.

11:03:48 2 Q. Now, you had been freelancing up until
11:03:51 3 then. Is that right?

11:03:53 4 A. Assisting and freelancing a little bit,
11:03:56 5 yeah.

11:03:58 6 Q. About how much of your time was spent
11:04:06 7 working at the photo lab?

11:04:09 8 A. How many hours a day?

11:04:11 9 Q. Was it a full-time job?

11:04:12 10 A. Oh, yeah. Uh-huh.

11:04:18 11 Q. And then when did you do your freelance
11:04:20 12 photography work?

11:04:22 13 A. I would do that on the side. But mostly I
11:04:24 14 did that in the time that I was living back in
11:04:29 15 Dunedin during that six, eight months when I wasn't
11:04:34 16 working at the lab. But I did take little jobs
11:04:37 17 while I worked at the lab too.

11:04:39 18 Q. And forgive me because I didn't put it in
11:04:41 19 my notes, but that would have been around 2005?

11:04:46 20 A. Yes.

11:04:50 21 Q. When and how were you -- strike that.

11:04:57 22 When did you first become interested in
11:04:59 23 being a class representative in this case?

11:05:02 24 A. I don't remember an exact date, but it was
11:05:06 25 two years ago. Probably two and a half years ago.

11:05:10 1 So that was what? 2017 maybe.

11:05:22 2 Q. How did you become aware of the
11:05:24 3 possibility?

11:05:24 4 A. From a phone call that I got from my
11:05:26 5 lawyer.

11:05:27 6 Q. And who was your lawyer?

11:05:28 7 A. Jason Jones.

11:05:30 8 Q. And you had had -- had you had any previous
11:05:35 9 contact with Mr. Jones?

11:05:36 10 A. Never.

11:05:36 11 Q. So this was what might be called a cold
11:05:39 12 call?

11:05:39 13 A. Yes.

11:05:52 14 MR. DROOKS: Etan, are you going to assert
11:05:54 15 privilege as to anything that was discussed, I
11:05:56 16 assume?

11:05:57 17 MR. MARK: Yes.

11:05:57 18 MR. DROOKS: Okay. So I don't need to ask
11:06:00 19 questions to elicit the privilege?

11:06:02 20 MR. MARK: No.

11:06:08 21 MR. DROOKS: Can we go off the record for a
11:06:09 22 moment?

11:06:10 23 MR. MARK: Sure.

11:06:11 24 THE VIDEOGRAPHER: We are now off the record.

11:06:12 25 The time is 11:06 A.M.

11:06:13 1 (Off the record.)

11:06:52 2 THE VIDEOGRAPHER: We are now back on the
11:06:53 3 record. The time is 11:06 A.M.

11:06:56 4 Q. BY MR. DROOKS: About how much time passed
11:06:57 5 between the time you first spoke to Mr. Jones and
11:07:01 6 the time you agreed to serve as class
11:07:04 7 representative?

11:07:08 8 A. I don't know exactly, but it wasn't right
11:07:10 9 away. It was at least a couple weeks. Maybe even a
11:07:13 10 month or two.

11:07:14 11 Q. Why did you decide to serve as a class
11:07:16 12 representative in this lawsuit?

11:07:19 13 A. Because I feel like there's a lot of people
11:07:21 14 that had the same situation happen to me, losing
11:07:28 15 money, and feel like Herbalife needs to be held
11:07:32 16 accountable for, like, the misdirection, I guess. I
11:07:42 17 feel like these people need a voice. And it would
11:07:46 18 be nice to get some of the money back that I lost.

11:07:49 19 Q. Now, when you say the money that you lost,
11:07:52 20 what are you referring to?

11:07:55 21 A. All the loss in money that I had from
11:07:58 22 putting into the business.

11:07:59 23 Q. The money that you spent pursuing the
11:08:01 24 business opportunity?

11:08:02 25 A. Correct.

1 STATE OF CALIFORNIA)
2)
3 COUNTY OF LOS ANGELES)

4 I, Laury Wasoff, Certified Shorthand Reporter
5 No. 10995, Do Hereby Certify:

6 That prior to being examined, the witness named in the
7 foregoing deposition was by me duly sworn to testify to
8 the truth, the whole truth, and nothing but the truth;

9 That said deposition was taken down by me in shorthand
10 at the time and place therein named and thereafter
11 transcribed under my direction, and the same is a true,
12 correct, and complete transcript of my shorthand notes so
13 taken.

14 That if the foregoing pertains to the original
15 transcript of a deposition in a federal case, before
16 completion of the proceedings, review of the transcript
17 {x} was { } was not requested.

18 I further certify that I am not in any way interested
19 in the outcome of this action.

20 In witness whereof, I have hereunto subscribed my name
21 this 13th day of September, 2019.

22
23 

24 LAURY WASOFF, CSR NO. 10995, RPR
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

MICHAEL LAVIGNE, et al,)
)
Plaintiffs,)
)
vs.) Case No. 2:18-cv
) 07480-JAK(MRWx)
HERBALIFE LTD., et al,)
)
)
Defendants.)
_____)

CERTIFIED COPY

VIDEOTAPED DEPOSITION OF IZAAR VALDEZ
Los Angeles, California
August 29, 2019

Reported By:
NANCY KRAMER, CSR 8756

01:18:44 1 BY MR. CHAN:

01:18:44 2 Q Sure. Do you understand who the lawyers are
01:18:47 3 representing you in this case?

01:18:49 4 A Oh, yes, I do, sir. Yes.

01:18:50 5 Q When did you first make contact with them or
01:18:52 6 have contact with them?

01:18:54 7 A I made contact with them through my father. My
01:18:57 8 father talked to me about them.

01:19:01 9 Q What did your father say?

01:19:02 10 A That he spoke to them and they were attorneys
01:19:07 11 willing to help us.

01:19:10 12 Q Did he tell you how he got in touch with the
01:19:13 13 lawyers?

01:19:14 14 MS. JONES: Objection. Form.

01:19:15 15 THE WITNESS: Yes.

01:19:16 16 BY MR. CHAN:

01:19:16 17 Q What did he say?

01:19:17 18 A A friend. A friend of him that actually went
01:19:20 19 through the same situation, but I don't know the person.

01:19:23 20 Q You don't know the friend's name?

01:19:24 21 A No.

01:19:25 22 Q Do you remember when -- when was this?

01:19:27 23 A I was living in New Jersey when he talked to me
01:19:29 24 about it, two years ago.

01:19:30 25 Q You've got to just let me just finish the

01:19:33 1 question so she can get the answer.

01:19:36 2 So it was two years ago that you first had this
01:19:39 3 conversation with your father about the class lawyers?

01:19:40 4 A Yes, sir.

01:19:41 5 Q Do you remember when?

01:19:43 6 A No, I can't remember when exactly.

01:19:45 7 Q And do you remember what he said about how he
01:19:48 8 got in touch with the class lawyers?

01:19:51 9 A He was doing a job, a construction job at this
01:19:55 10 person's house and that's how they came up with the
01:19:58 11 conversation. That's how I know that it was a friend
01:20:01 12 because he was telling me, "Oh, I was doing a job and
01:20:04 13 this person told me that we could get help" and that's
01:20:07 14 how he told me.

01:20:10 15 Q Did he tell anything else about what the
01:20:14 16 lawyers were proposing to do or could do?

01:20:17 17 MS. JONES: Objection. Form.

01:20:18 18 THE WITNESS: No. He said I just needed to
01:20:23 19 talk to them.

01:20:23 20 BY MR. CHAN:

01:20:24 21 Q When did you first talk with your lawyers in
01:20:25 22 this case?

01:20:27 23 A It was about a month later after my dad spoke
01:20:30 24 to me about it.

01:20:33 25 Q And you were still in New Jersey at the time?

01:20:36 1 A Yes, sir.

01:20:37 2 Q Did you talk to anyone else about joining in
01:20:41 3 this lawsuit, other than your lawyers?

01:20:44 4 A No.

01:20:44 5 Q Did you talk to your father about it?

01:20:47 6 A He's -- he's -- yeah, he knows. He's
01:20:50 7 willing -- like, he's in the case.

01:20:52 8 Q Did you have any discussions with your father
01:20:55 9 before you agreed to have the lawyers represent you in
01:20:59 10 the case?

01:20:59 11 A No.

01:21:01 12 Q Did you have any discussions with your father
01:21:03 13 about whether you should engage or hire the lawyers to
01:21:09 14 represent you?

01:21:11 15 A No, because we knew. We knew how much, you
01:21:15 16 know, we went through and how much we lost and we needed
01:21:18 17 help. So we were working as a team with Herbalife. So
01:21:23 18 we knew all the struggle, so we were just agreeing to
01:21:27 19 look for help.

01:21:28 20 Q What did your father tell you about whether the
01:21:32 21 lawyers would charge you money or how you'd pay for
01:21:35 22 lawyers?

01:21:35 23 MS. JONES: Objection. Form.

01:21:37 24 THE WITNESS: We didn't talk about that.

25 ///

01:21:38 1

BY MR. CHAN:

01:21:40 2

Q Did you have any discussions about that at any

01:21:42 3

point?

01:21:42 4

A No. Because a month later I spoke to Jason and

01:21:48 5

he never mentioned to me I had to pay anything.

01:21:52 6

Q So you never had any discussions with your

01:21:54 7

father about paying for the lawyers before you actually

01:21:56 8

agreed to hire the lawyers?

01:21:59 9

A No, sir.

01:22:00 10

Q Why did you decide to serve as a class

01:22:03 11

representative in this lawsuit?

01:22:05 12

A Honestly, being my second time trying to do the

01:22:10 13

Herbalife business and not being successful about it, I

01:22:14 14

think that I could be part of something positive towards

01:22:19 15

so many hundreds of people that actually is going

01:22:22 16

through the same thing. And I know that maybe me

01:22:26 17

standing up to look up for a solution, that can help

01:22:28 18

others. That's how I thought about it.

01:22:31 19

Q Are you receiving any compensation to serve as

01:22:34 20

a class representative?

01:22:34 21

A No.

01:22:35 22

Q Have you been promised any compensation --

01:22:40 23

A No, sir.

01:22:40 24

Q -- to serve as a class rep?

01:22:40 25

A No.

REPORTER'S CERTIFICATION

I, Cheryl M. Haab, Certified Shorthand Reporter in and
for the State of California, do hereby certify:

That the foregoing witness was duly sworn; that the
deposition was then taken before me at the time and place
herein set forth; that the testimony and proceedings were
reported stenographically by me and later transcribed into
typewriting under my direction; that the foregoing is a
true record of the testimony and proceedings taken at that
time.

Further, that if the foregoing pertains to the
original transcript of a deposition in a federal case,
before completion of the proceedings, review of the
transcript [X] was [] was not requested.

IN WITNESS WHEREOF, I have subscribed my name on this
date: September 17, 2019.



Cheryl M. Haab, CSR No. 13600, RPR, CCRR, CLR